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Crl OP Nos.22765 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Criminal Original Petition No.22765 of 2019

and

Crl.M.P.Nos.11852 & 11853 of 2021

P.Kumaravel ... Petitioner /Accused No.3
Advocate,
No.94-2, K.D.K.Complex, II Floor,
Venkataramanan Street,
Pollachi – 642 001.

Versus

1. The Inspector of Police,
All Women Police Station East,
Coimbatore City,
Coimbatore District. ... 1st Respondent/ Complainant
2. Mrs. Divya ... 2nd Respondent/
Defacto Complainant

Prayer : Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code seeking to call for the records relating to the complaint in C.C.No.1328 of 2019 on the file of the learned Additional Mahila Court, Coimbatore, quash the same.

For Petitioner : Mr.R.John Sathyan, Senior Counsel
for Mr.D.R.Arun Kumar



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For Respondents : Mr.A.Damodaran
Additional Public Prosecutor, for R1

No appearance for R2

ORDER

This Criminal Original Petition has been filed seeking to quash the Final Report for the alleged offence under Sections 498(A), 506(1), 120B, 115 of IPC.

2. It is alleged that the first accused is the husband of the second respondent. The second accused is the mother-in-law and the third accused was in a live in relationship with the second accused; that on 03.04.2013 when the Defacto Complainant visited the house of the first accused, she found that the second accused and the petitioner were together; that the petitioner and the second accused had threatened the Defacto Complainant stating that she must ignore her relationship with the petitioner or otherwise they would kill her. The other allegation is that there was a conversation between the first and the second accused stating that if the Defacto Complainant misbehaved they would take the help of the petitioner to kill her.



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3. The learned counsel for the petitioner would submit that the petitioner is a lawyer by profession and he has nothing to do with the marriage between the first accused and the second respondent. Even assuming that he had illicit relationship with A2/ the mother of A1, the allegations do not constitute any of the offence alleged. The alleged incident of threat is an afterthought. That apart the allegations do not constitute any real threat. Mere words would not amount to the offence of criminal intimidation.

4. The learned Additional Public Prosecutor submitted that the allegations against the petitioner is that he was in illicit relationship with the second respondent/mother-in-law and that when the Defacto Complainant saw them together, they abused and threatened her. Since the allegations constitute the offences, the learned Additional Public Prosecutor submitted that the matter has to be adjudicated in the Trial Court and hence he prayed for dismissal of the quash petition.

5. Though notice was sent to the second respondent the said notice was returned with an endorsement 'insufficient address'.



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6. This Court on perusal of the impugned Final Report finds that the allegations against A1 and A2 are that they committed cruelty on the second respondent. Admittedly, there is no allegation of cruelty against the petitioner. The only allegation against the petitioner is that he was in illicit relationship with A2 and on one occasion he had abused the Defacto complainant and threatened her. This Court has repeatedly held that the words spoken must cause real threat to constitute the offence of criminal intimidation. However, on a reading of the Final Report, there is nothing to suggest that there was any real threat so as to attract the offence of criminal intimidation. The petitioner had nothing to do with the alleged acts of cruelty and hence cannot be tried with the other accused. Useful reference can be made to the judgment of this Court in **Noble Mohandass Vs. State**, reported in **Manu/TN/0026/1988**, wherein this court has held as follows:

*“7. Further for being an offence under **Section 506(2)** which is rather an important offence punishable with imprisonment which may extend to seven years, the threat should be a real one and not just a mere word when the person uttering it does exactly mean what he*



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says and also when the person at whom threat is launched does not feel threatened actually.”

7. As regards the allegation that the other accused threatened the defacto complainant saying that they would seek the help of the petitioner to kill her, the same cannot be attributed to the petitioner.

8. For the above reasons, the impugned final report as against the petitioner is liable to be quashed and hence quashed. The Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

05.04.2023

jv

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. The Judicial Magistrate No.1,
Coimbatore.

2. The Public Prosecutor
High Court of Madras
Chennai – 600 104.



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SUNDER MOHAN, J.

jv

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